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Temporary Committee on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners

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WORKING DOCUMENT

on TDIP Temporary Committee work programme

Temporary Committee on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners

Rapporteur: Giovanni Claudio Fava

GENERAL PRINCIPLES

This work programme incorporates points made by the rapporteur as well as EPP-ED, ALDE, Greens/ALE, GUE and IND/DEM contributions, taking account of the general orientations agreed at the TDIP Committee meeting on 13 February 2006. It should be emphasised that this is an evolving work programme to be modified on the basis of evidence collected during the course of ongoing work.

1. Provisional calendar of meetings and planning of the provisional report

- As a general rule, Temporary Committee meetings will be in Brussels and the meetings of the Steering Group (Bureau + Coordinators + Rapporteur) in Strasbourg. Additional meetings in Strasbourg will take place only when deemed necessary.
- Splitting the Temporary Committee into regional groups or groups by subject should be avoided.
- Given the Temporary Committee size and composition, with Members from the Committee on Foreign Affairs and the Committee on Civil Liberties, joint meetings with those Committees are not envisaged except under special circumstances. AFET and LIBE Committee Opinions will therefore not be viewed as necessary.
- Since, in principle, the interim report should be adopted at the Plenary part-session in June 2006, the Temporary Committee vote should be scheduled for 30 May 2006 at the latest.
- All available documentation (e.g. exchange of letters, Council of Europe documents, reports, articles, Eurocontrol/European Satellite Centre documents) will be available to all Temporary Committee Members.

In particular:

1. The Council of Europe should be invited to transmit to the Temporary Committee the following documents:
 - a. Answers to the information request sent by the General Secretary of the Council of Europe to its Member States, according to Article 52 of the European Convention on Human Rights. The deadline for those answers is 21 February 2006.
 - b. Information received on 23 January 2006 by the Satellite Centre in Torrejon and by Eurocontrol concerning the CIA identified planes in European airports.
 - c. Conclusions of the Venice Commission Report, to be handed over on 17 March 2006. A joint meeting with the Legal Affairs Committee of the Council of Europe could be envisaged, notably when it will receive the Venice Commission's report.

2. EU Member States and third countries, especially those where parliamentary enquiries are currently under way, should be asked to provide all relevant information, namely:
 - a. Polish Government: information on the conclusions of the Government investigation on the existence of secret CIA prisons in Poland, especially after the declaration of Government spokesperson, Jan Dziejdziczak, to ABC Television on 24 December 2005. (“Results will not be made public”).
 - b. Belgian government: information on the conclusion of the investigation upon alleged CIA flights or use of Belgian air space by CIA planes.
 - c. Greek Government: information on the conclusion of an investigation on the alleged existence of secret CIA prisons on Souda naval base (Crete).
 - d. Swiss Government: whether or not there exists an investigation and what conclusion has been reached on the case of the kidnapping of Mr José Padilla, handed over to US authorities in Switzerland without a proper Court order.
 - e. Romanian Senate: information on the conclusion of the investigation on the alleged existence of secret CIA prisons in Romania.

3. On the basis of the answers given to the Council of Europe, EU National Parliaments and Parliaments of relevant third countries should be invited, through their committees responsible for the Control of Secret Services, to answer the questions as contained in the Temporary Committee mandate:
 - i. Has the CIA carried out rendition flights and torture on EU territory, including acceding, candidate and associate countries?*
 - ii. Have EU citizens or citizens from acceding, candidate and associate countries been abducted?*
 - iii. Were Member States' authorities aware, informed or complicit?*
 - iv. Have EU/EC law, national legislations, international/bilateral conventions been violated?*

Furthermore, the Presidents of National Parliaments should be invited to provide information on current or past parliamentary enquiries on the matters covered by the Temporary Committee mandate (*see above*).

4. A good level of cooperation is expected from all EU institutions and especially from decentralised bodies of the EU (e.g. European Satellite Centre) or organisations of which the European Community is a member (e.g. Eurocontrol).
 - It is suggested that the recent Austrian Presidency proposal made in the LIBE Committee be accepted, namely to meet with the Ministers of Justice of EU Member States on the occasion of the Council Meeting scheduled for 27-28 April 2006.

2. Opening and transparency of proceedings

- Meetings will be public as long as there is no explicit need for closed meetings. Closed meetings should be decided by the Bureau.

- Video-conference facilities should be used only when meetings in person are not possible.
- National Parliament representatives, both from Member States and acceding countries, will be invited on a permanent basis.
- Representatives from the Council of Europe (Secretary General, Parliamentary Assembly and Commissioner for Human Rights), the UN High Commissioner for Human Rights will also be invited, in compliance with the Temporary Committee mandate.

3. Invitations to personalities/institutions

- Invitees should be selected regarding the added value of their contribution to the Committee's work, with focus on asserting facts.

(*) *(see the list attached)*

- **As a first step:** Vice-President of the European Commission Franco Frattini, Non-Governmental Organisations and witnesses should be invited. Other EU institutions and Member States' officials could be asked to contribute at a later stage. This will facilitate collation of evidence in order to then address concrete questions to officials and EU institutions representatives.

4. Visits of Temporary Committee delegations

- In the framework of mutual and loyal cooperation with the US administration and authorities, a delegation could meet with both current and former US officials, parliamentarians and journalists in the United States:
 - **Michael Scheuer**, Head of the Bin Laden Unit, CIA Counterterrorist Center from 1996 to 1999. Resigned from the CIA in 2004. Architect of the renditions system having given several interviews on this issue (*PPE, ALDE, Greens, GUE*)
 - **Richard Clarke**, ex-counterterrorism "czar" in the Clinton and Bush Administration (*PSE*)
 - **Vincent Cannistraro**, former official at the Counterterrorist Center. Resigned from the CIA in 2004 (*ALDE*)
 - **Senator John Kerry** (Democrat)
 - **Senator John McCain** (Republican)
 - **Porter Goss**, CIA Director, (*ALDE, Greens*)
 - **George Tenet**, former CIA Director (1997-2004)
 - **Robert Grenier**, former Chief of the Counterterrorist Center.
 - Current and former US administration officials to be contacted during the course of the Temporary Committee's work.

In the event that during the envisaged delegation to the United States, meetings with one or more of these individuals was not possible, the Temporary Committee could then invite those individuals to attend a regular Committee meeting or participate by video-conference. An invitation to Mr Boyden Gray, US Ambassador to the EU could also be envisaged.

- At a later stage, visits to other countries may also be necessary. Selection of countries to be visited will depend on whether sufficient grounds exist to benefit the Temporary Committee's work.

5. Background information, specific studies

- Legal advice should be sought on those actions considered a violation inter alia of Article 6 of the Treaty on European Union, Articles 2, 3, 5 and 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Charter of Fundamental Rights, the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the EU-US agreements on extradition and on mutual legal assistance and other international treaties and agreements concluded by the European Union/Community and its Member States, including the North Atlantic Treaty and its related agreements on the status of forces (in particular, the agreements concerning the use of American bases in the territory of EU Member States and acceding countries) and the Convention on International Civil Aviation.
- Legal advice should be sought on the definition of torture and any other relevant issue for the Temporary Committee's work (e.g. extraordinary rendition). In this connection, the Network of Independent Experts on fundamental rights could be requested to produce an "ad hoc" paper.
- It should be noted that the Temporary Committee has a specific budget for external expertise.

(* Auditions programme

Auditions or encounters in Brussels or abroad

1. Council of Europe:

- Dick Marty, Chairman of the Committee on Legal Affairs and Human Rights, Council of Europe
- Terry Davis, General Secretary of the Council of Europe

2. European Union Institutions:

- Franco Frattini, Vice-President of the European Commission
- Javier Solana, General Secretary of the Council and High Representative for Foreign and Security Policy
- Gjis de Vries, EU Coordinator for the Fight against Terrorism

3. United Nations High Commissioner for Human Rights

- Louise Arbour, United Nations High Commissioner for Human Rights
- Manfred Nowak, UN Special Rapporteur on Torture (*EPP-ED, Greens*)
- Martin Scheinin, Special rapporteur for Human Rights and counterterrorism

4. Human Rights organisations:

- **Joanne Mariner**, Human Rights Watch (HRW) Terrorism and Counterterrorism Program Director, **John Sifton** (*Greens, GUE*) and **John Garlasco**, ex Defence Intelligence Agency analyst, who has done extensive research for HRW on the matter of extraordinary renditions.
- **Claudio Cordone**, Director Regional Programs of Amnesty International, **Brian Wood** (*Greens*) and **Anne Fitzgerald**, Senior Research Policy Adviser.
- American Civil Liberties Union (ACLU) representative, to be determined, in view of ACLU legal action against the CIA on behalf of German citizen Khaled El-Masri, kidnapped in FYR of Macedonia and tortured in Afghanistan by the CIA (*ALDE, Greens*)
- **Tony Bunyan** of Statewatch, London, Director, investigative journalist (*GUE*)
- **Scott Horton**, Human Rights Lawyer, chairman of the International Law Committee at New York Bar Association. (*EPP-ED*)

- **Hossam el-Hamalawy**, Egyptian Human rights activist and journalist for the Los Angeles Times and the Cairo Times. Beaten up by the police during the recent elections, he is on record stating that since 9/11 between 150 and 300 persons have been extra-rendered to Egypt. (*Greens*)

5. Member States' (and other countries') officials involved in the investigations (Ministers, parliamentarians, prosecutors, security officers), in particular from: Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, Malta, the Netherlands, Poland, Portugal, Sweden, United Kingdom (especially in Scotland), Bulgaria, Romania, Norway and Switzerland.

Considering the high number of countries involved in the investigations, initially the Temporary Committee should focus on Italy, Poland, Romania, United Kingdom, Germany, Sweden and Spain. For each of these countries, the Temporary Committee should meet:

- Prosecutors or police officials investigating cases of extraordinary renditions and of CIA flights departing from or passing through the national territory:
 - Prosecutor **Armando Spataro**, Milan, Italy.
 - prosecutors from other countries (to be defined).
 - Spanish police officials (Guardia Civil) responsible for the Spanish enquiry in Mallorca that have produced a report for the Audiencia Nacional (Spanish Court competent for terrorism).
- Airport authorities
- Directors of National Intelligence
 - **Nicolò Pollari** (Director of Sismi, Italy)
 - other countries (to be defined)
- Chairmen of the enquiry committees from National Parliaments dealing with the same alleged actions.
- Heads of Parliamentary Committees for the Control of Secret Services
 - **Enzo Bianco** (Italy)
 - other countries (to be defined)
- Ministers of Justice and/or Home Affairs

6. Journalists

- **Dana Priest**, Washington Post reporter (*Greens*) and **Julie Tate**, researcher, (article of 2 November 2005, the Washington Post)
- **Stephen Gray**, British journalist, Le Monde Diplomatique (*ALDE*)
- **Brian Ross** (*ALDE*) /**Richard Esposito** of ABC Television (rendition of secret prisoners to North Africa)
- **Guido Olimpino**, Corriere della Sera, author of Operazione Hotel California (Feltrinelli, October 2005).(*ALDE, GUE*)

7. Witnesses

- **Craig Murray**, former UK Ambassador to Uzbekistan (*Greens*)
- **Edward Horgan**, former Major Irish Army, author of a document reporting on CIA airplane movements in Shannon airport, Ireland
- **Nabila Ghali**, wife of Abu Omar. (*GUE*)
- **Mohamed Reda**, Egyptian imam of Milan. (*GUE*)

8. Victims

- **Khaled El-Masri**, German citizen, abducted in Skopje, FYR of Macedonia, on 31 December 2003. Transferred on 23 January 2004 by CIA aircraft to a prison in Afghanistan, detained and tortured for 4 months. Released without being charged of any accusation. Now free, he lives in Germany. (1) (*ALDE, GUE*)
- **Maher Arar**, Canadian citizen of Syrian origin, kidnapped and deported to Syria, where he was held secretly and tortured for one year. Finally released, he now lives in Canada. Although not captured in Europe, the CIA airplane that transported him to Damascus allegedly stopped in Rome. Now finally free, he lives in Canada.
- **Muhammad Suleiman Ibrahim El-Zari**, Egyptian citizen, today free in Egypt. On 18 December 2001 the Swedish government turned his and Ahmed Hussein Mustafa Kamil 'Agiza's applications for asylum down. He and Mr Agiza were to be immediately transported from Swedish territory to Egypt by the Swedish security police. The transportation was conducted with an American airplane. Mr El-Zari and Mr Agiza were treated with violence and force at the airport in Sweden and during the transportation. Well in Egypt they were tortured in prison. Mr El-Zari and Mr Agiza were visited by the Swedish ambassador on a number of occasions. A request for an international independent investigation has been suggested by the Swedish government but so far turned down. (2) (*ALDE, GUE*).

note

(1) Manfred Gnjidic, lawyer of el Masri.

(2) Kjell Jonsson, lawyer of El-Zary

9. Rapporteur's priorities for future Temporary Committee meetings

- *13 February 2006*
 - Exchange of views with the Vice-President of the European Commission Franco Frattini
- *23 February 2006*
 - Exchange of views with NGOs (in the morning):

- Human Rights Watch: Joanne Mariner, Terrorism and Counterterrorism Program Director (confirmed)
- Statewatch: Tony Bunyan, Director, investigative journalist (confirmed)
- Amnesty International: Anne Fitzgerald, Senior Research Policy Adviser.

- Exchange of views (in the afternoon):

- Armando Spataro, Prosecutor, Milan (confirmed)
- Dick Marty, Chairman of the Committee on Legal Affairs and Human Rights, Council of Europe (confirmed)

- *6 March 2006*

- Joint meeting with the Committee on Civil Liberties with a Public Hearing on Member States' Secret Services and their coordination at EU level. The following persons could be invited, amongst others:

- Gjis de Vries, EU Coordinator for the Fight against Terrorism
- P. Ratzel, acting Director of Europol
- Representative of Italy's Secret Services (Sismi)
- Representative of Spain's Secret Services (CESID)